

APPEAL NO. 022505  
FILED NOVEMBER 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 11, 2002. The hearing officer determined that due to her \_\_\_\_\_, left carpal tunnel injury, the respondent (claimant) has had disability from April 15 to September 1, 2002, and at no other time as of the date of the hearing. The appellant (carrier) appealed, arguing that any disability resulted from surgery to the previously-injured right extremity and not from the compensable injury. The claimant did not respond.

DECISION

Affirmed.

Whether or not a claimant has had disability is a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. In this case, as the carrier acknowledges, the medical evidence shows that the claimant was kept off work due to bilateral carpal tunnel syndrome. The carrier explains the medical evidence with an unproved allegation that the doctors are somehow "in cahoots" to obtain temporary income benefits for the claimant. The carrier argues that the claimant's testimony that she could not "do anything" because of her right hand postsurgery makes its own sole cause case. However, disability is not based upon an evaluation of whether a claimant can or cannot "do anything" but upon whether, due to the compensable injury, a claimant is unable to obtain and retain employment. We note that the carrier's doctor was also among those who attributed an inability to work to the claimant's left extremity when he examined the claimant on August 22, 2002, and as there is no basis for concluding that it was precisely on that day that this extremity became the reason for an inability to work (in light of other medical records throughout the preceding period identifying the left extremity as a factor in the inability to work), we cannot agree that the hearing officer's decision is without support in the record.

Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986). Accordingly, no sound basis exists for us to reverse that determination on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Margaret L. Turner  
Appeals Judge